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8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)	No. D-2617
Against:)	
13)	STIPULATION AND
JOHN S. BARNSDALE, M.D.)	<u>DECISION AND ORDER</u>
14 370 Alpine Drive)	
Colfax, California)	
15)	
Physician's and Surgeon's)	
16 Certificate No. G-34272,)	
)	
17 Respondent.)	
)	

18 _____

19 IT IS HEREBY STIPULATED by and between John S.
20 Barnsdale, M.D. (referred to herein as respondent), together
21 with his attorney, Robert P. McElhany, Esq., with offices at
22 1545 Grass Valley Highway, Auburn, California, and Robert
23 Rowland, complainant herein, as Executive Director of the
24 Board of Medical Quality Assurance of the State of California,
25 by and through his attorney, George Deukmejian, Attorney
26 General of the State of California, by Joseph Barkett, Deputy
27 Attorney General, as follows:

I

That respondent has received and read the accusation which is presently on file and pending in case No. D-2617 before the Division of Medical Quality, Board of Medical Quality Assurance of the State of California.

II

That respondent has retained Robert P. McElhany, Esq. to be his attorney in case No. D-2617, and that respondent has counseled with Robert P. McElhany, Esq. concerning the effect of this stipulation.

III

That respondent understands the nature of the charges alleged in the above-mentioned accusation as providing the basis for revoking or suspending his Physician's and Surgeon's Certificate No. G-34272.

IV

That respondent is fully aware of his right to a hearing on the charges and allegations contained in said accusation, his right to reconsideration, to appeal, and to any and all other rights which may be accorded him pursuant to the California Administrative Procedure Act (Gov. Code, § 11370 et seq.), and that he hereby freely and voluntarily waives his right to a hearing, to reconsideration, to appeal, and to any and all other rights which may be accorded him by the California Administrative Procedure Act and the Code of Civil Procedure. Respondent, however, retains all rights to petition the Division of Medical Quality for termination of

1 or modification of the terms and conditions of his probation.

2 V

3 That Robert Rowland as Executive Director of the
4 Board of Medical Quality Assurance, made and filed the accu-
5 sation solely in his official capacity. That respondent's
6 license status and history as set forth in paragraph II of
7 the accusation are true and correct.

8 VI

9 Respondent admits that the allegations contained
10 in paragraphs VIII, IX, X, XI and XIII of the accusation are
11 true as to respondent.

12 This stipulation is made solely for the purpose of
13 settling the allegations alleged in the accusation. Therefore,
14 none of the admissions or allegations in this proceeding may
15 be used in any other proceeding civil or criminal.

16 VII

17 That based on the foregoing recitals, IT IS STIPULATED
18 AND AGREED that the Division of Medical Quality, Board of
19 Medical Quality Assurance may issue a decision and order
20 upon this stipulation whereby the following discipline will
21 be imposed.

22 Respondent's licentiate certificate No. G-34272 is
23 hereby revoked; provided, however, that the execution of
24 said order of revocation is stayed and respondent is placed
25 on probation for a period of five (5) years beginning the
26 effective date of this decision and order, upon the following
27 terms and conditions:

1 1. Respondent shall not prescribe,
2 administer, dispense, order or possess (except as
3 prescribed, administered, or dispensed to respon-
4 dent by another person authorized by law to do so)
5 controlled substances as defined by the California
6 Uniform Controlled Substances Act except for those
7 drugs listed in Schedules IV and V of the Act.
8 Respondent may, however, administer drugs listed
9 in Schedules II and III only to in-patients in a
10 health facility setting.

11 2. Respondent shall abstain completely from
12 the personal use or possession of controlled sub-
13 stances as defined in the California Uniform Con-
14 trolled Substances Act and dangerous drugs as
15 defined by Section 4211 of the Business and Pro-
16 fessions Code, except those prescribed, administered,
17 or dispensed to respondent by another person author-
18 ized by law to do so.

19 3. Respondent shall comply immediately with
20 requests from the Division's designee to submit to
21 biological fluid testing.

22 4. Within 30 days of the effective date of
23 this decision, respondent shall undergo an admin-
24 istrative psychiatric evaluation by a psychiatrist
25 designated by the Division who shall furnish a
26 report to the Division stating whether respondent
27 is fit to practice medicine and whether respondent

1 requires psychiatric treatment to practice medicine
2 safely.

3 If respondent is judged by the administrative
4 psychiatrist to be in need of psychiatric treat-
5 ment in order to practice medicine safely, respon-
6 dent shall within 30 days of notification of the
7 requirement of psychiatric treatment submit to the
8 Division for its prior approval the name and quali-
9 fications of the psychiatrist of his choice. Upon
10 approval, respondent shall undergo treatment and
11 continue treatment until such time as the Division
12 deems that no further psychiatric treatment is
13 necessary. To make this determination, the Divi-
14 sion may require periodic administrative psychiatric
15 evaluations.

16 5. Respondent shall obey all federal, state
17 and local laws, and all rules governing the prac-
18 tice of medicine in California.

19 6. Respondent shall submit quarterly decla-
20 rations under penalty of perjury on forms provided
21 by the Division, stating whether there has been
22 compliance with all the conditions of probation.

23 7. Respondent shall comply with the Division's
24 probation surveillance program.

25 8. Respondent shall appear in person for
26 interviews with the Division's medical consultant
27 upon request at various intervals and with reasonable
28 notice.

9. In the event respondent should leave California to reside or to practice outside the State, respondent must notify in writing the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

10. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation of the respondent's certificate and make any other appropriate order.

11. Upon successful completion of probation, respondent's certificate will be fully restored.

VIII

This stipulation shall be subject to the acceptance of the Division of Medical Quality, Board of Medical Quality Assurance. If the Division fails to accept this stipulation, it shall be of no force or effect for either party.

DATED: 5-22-81

GEORGE DEUKMEJIAN, Attorney General
of the State of California
JOSEPH BARKETT,
Deputy Attorney General

By Joseph Barkett
JOSEPH BARKETT

Attorneys for Complainant

1 DATED: 5/22/81.

2
3
4 By Robert P. McElhany
ROBERT P. McELHANY, Esq.

5 Attorney for Respondent

6 DATED: 5. 22. 81.

7
8 By John S. Barnsdale M.D.
JOHN S. BARNSDALE, M.D.

9 Respondent

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18 The above stipulation, order, and terms and conditions
19 of probation are hereby accepted as the decision of the
20 Division of Medical Quality, Board of Medical Quality Assurance
21 in this matter. This decision will be effective on _____
22 September 11, 1981.

23 DATED: August 12, 1981.

24 DIVISION OF MEDICAL QUALITY
25 BOARD OF MEDICAL QUALITY ASSURANCE

26 By Miller Medearis
27 MILLER MEDEARIS
Secretary-Treasurer

1 GEORGE DEUKMEJIAN, Attorney General
2 of the State of California
3 JOSEPH BARKETT,
4 Deputy Attorney General
5 555 Capitol Mall, Suite 350
6 Sacramento, CA 95814
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8 Attorneys for Complainant

9 BEFORE THE
10 DIVISION OF MEDICAL QUALITY
11 BOARD OF MEDICAL QUALITY ASSURANCE
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 In the Matter of the Accusation) No. D-2617
15 Against:)
16) ACCUSATION
17 JOHN S. BARNSDALE, M.D.)
18 370 Alpine Drive)
19 Colfax, California)
20)
21 Physician's and Surgeon's)
22 Certificate No. G-34272,)
23)
24 Respondent.)

25 COMES NOW COMPLAINANT ROBERT G. ROWLAND, who as
26 causes for disciplinary action against the above-named and
27 captioned respondent, charges and alleges as follows:

28 I

29 He is the Executive Director of the Board of Medical
30 Quality Assurance of the State of California (hereinafter
31 referred to as the "Board") and makes and files this Accusation
32 solely in his official capacity.

33 / / / /

II

John S. Barnsdale, M.D. (hereinafter referred to as "respondent"), was issued Physician's and Surgeon's Certificate No. G-34272 by the Board, and at all times herein mentioned, respondent was, and now is, licensed to practice medicine and surgery in the State of California.

III

Sections 2360 and 2372 of the Business and Professions Code (hereinafter referred to as the "Code") provide that every certificate issued may be suspended or revoked. Section 2361 of the Code provides that the Division shall take disciplinary action against any holder of a certificate who is guilty of unprofessional conduct.

IV .

Section 2390 of the Code provides, in pertinent part, that the use or prescribing for or administering to himself, of any of the controlled substances specified in Schedule II of Section 11055 of the Health and Safety Code; or the use of any of the dangerous drugs specified in section 4211 of this Code to the extent, or in such a manner as to be dangerous or injurious to a person holding a certificate under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so holding such certificate to conduct with safety to the public the practice authorized by such certificate constitutes unprofessional conduct within the meaning of this chapter.

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V

Section 2391.5 of the Code provides that "a violation of any federal statute, or rule or regulation or any of the statutes or rules or regulations of this state regulating narcotics, dangerous drugs, or controlled substances, constitutes unprofessional conduct within the meaning of this chapter."

VI

Section 11170 of the Health and Safety Code provides that no person shall prescribe, administer, or furnish a controlled substance for himself.

VII

Section 11173, subdivision (a) of the Health and Safety Code provides that no person shall obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances (1) by fraud, deceit, misrepresentation or subterfuge, or (2) by concealment of a material fact.

VIII

Nisentil, also known as alphapraline, a narcotic drug, was classified as a controlled substance in Schedule II of the California Health and Safety Code and more particularly at section 11055, subdivision (c)(1) thereof, was also classified as a dangerous drug within the meaning of section 4211, subdivision (k) of the Code, and was also classified as a federally controlled Schedule II substance by virtue of 21 C.F.R., section 1308.12, subdivision (c)(1).

/ / / /

IX

Innovar, also known as fentanyl, a narcotic drug, was classified as a controlled substance in Schedule II of the California Health and Safety Code and more particularly at section 11055, subdivision (c)(6) thereof, was also classified as a dangerous drug within the meaning of section 4211, subdivision (k) of the Code, and was also classified as a federally controlled Schedule II substance by virtue of 21 C.F.R. section 1308.12, subdivision (c)(6).

X

Beginning at a time unknown and including December 12, 17, 21 and 26, 1979, and during the course of his professional duties as an anesthesiologist treating patients at Auburn Faith Hospital, Auburn, California, respondent used and administered to himself Nisentel and Innovar. Said acts constitute violations of section 2390 of the Code. Said acts further constitute violations of section 2391.5 of the Code as it relates to section 11170 of the Health and Safety Code.

XI

Respondent obtained the Nisentel and Innovar by taking hospital supplies of said drugs which were issued to him for treatment of patients in the hospital. Furthermore, respondent falsified hospital and patient records to indicate that patients had received said drugs which in fact were taken and used by respondent.

/ / / /

1 Said acts constitute a violation of section 2391.5
2 of the Code as it relates to section 11173, subdivision (a)
3 of the Health and Safety Code.

4 XII

5 Respondent's use of and administering to himself
6 of the dangerous drugs Nisentil and Innovar, as set forth in
7 paragraph X, was in a manner dangerous and injurious to
8 himself and his patients and was to the extent that his
9 ability to safely practice medicine was impaired.


10 Said acts constitute a violation of section 2390
11 of the Code.

12 WHEREFORE, Complainant prays that the Division of
13 Medical Quality of the Board of Medical Quality Assurance
14 hold a hearing on the matters alleged herein, and following
15 said hearing, issue a decision:

16 1. Revoking or suspending the Certificate of
17 Licensure heretofore issued to John S. Barnsdale, M.D.;
18 and

19 2. Taking such other and further action as the
20 Board deems necessary and proper.

21 DATED: October 24, 1980.

22 
23 ROBERT G. ROWLAND
24 Executive Director
25 Division of Medical Quality
26 Board of Medical Quality Assurance
27 State of California

Complainant